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SUBJECT: KUWAIT HOLDS SEMINAR ON POSSIBLE FTA WITH U.S.

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¶1. (U) Summary. In a June 4 seminar sponsored by American-Kuwaiti Alliance (AKA), the Kuwait Chamber of Commerce and Industry, the American Business Council of Kuwait and the Kuwait Economic Society, Kuwaiti, American, Jordanian and Singaporean speakers discussed the benefits of U.S. free trade agreements (FTA) and the ways to achieve them. Minister of Commerce Abdullah Al-Taweel opened the conference, saying that Kuwait is entering a new period of economic openness and calling the TIFA a signal of Kuwait's desire to develop its economic relations with the U.S. In his keynote address, the Ambassador defined TIFAs and FTAs and underscored the importance of WTO commitments. He stressed that Kuwait must take concrete steps to translate its intent to reform into reality, and should focus on (among other things) improving Kuwait's IPR and labor records and eliminating its import testing program. Although negotiating an FTA would be a challenging and possibly lengthy process, the Ambassador said, the economic advantages from an FTA could be significant, as evidenced by the Jordanian and Bahraini cases.

¶2. (U) The first roundtable discussion brought together a representative of the Business Council for International Understanding, a consultant to Kuwait's TIFA team, and officials from Jordan and Singapore who had been involved in negotiating their countries' FTAs with the U.S. Several themes emerged from the session: 1) U.S. free trade agreements, which are based on WTO commitments, are more comprehensive than most FTAs; 2) countries must have a strong negotiating team that can work effectively with its government's agencies, as well as a dynamic, knowledgeable and hardworking staff at its embassy in Washington; and 3) negotiating an FTA is not easy, but it is worthwhile.

¶3. (U) The second session focused more closely on Kuwait, with presentations from two of Kuwait's TIFA committee members, a representative of the private sector, and a member of the American Business Council. The TIFA committee members offered an overview of the U.S.-Kuwait TIFA's status, and spoke of the challenges they face. The private sector participants said that they would strongly support a free trade agreement and the associated structural reforms it would bring, since they would improve the business climate in Kuwait. End Summary.

¶4. (SBU) Comment. The observations made by the Jordanian and Singaporean negotiators mirrored almost exactly what post and USTR have been telling the Kuwaitis, and nicely echoed the points made by the Ambassador in his speech: the road to an FTA is a difficult one and requires significant action. It is unfortunate that more of the Kuwaiti negotiators were not present to hear these remarks, although we hope that those who did will take what they heard to heart. The contrast between the Jordanian and Singaporean speakers and the Kuwaiti negotiators was striking. While the former were evidently experts in their field and presented strong cases in favor of free trade, the Kuwaiti negotiators were unable to answer questions from the audience about the benefits to Kuwait of an FTA, or how an FTA would affect certain sectors of the Kuwaiti economy. It was disappointing, too, that they could not identify the areas that the U.S. has indicated are most important for the TIFA process, most notably improving IPR protection and enforcement. We hope that the Kuwaitis will continue to engage with their Jordanian and Singaporean counterparts, as well as their colleague in Bahrain, to learn from them and benefit from their experiences in negotiating FTAs with the U.S. Post would like to thank Embassies Amman, Manama and Singapore for their assistance in identifying participants for this seminar. End Comment.

U.S. Free Trade Agreement: Opportunities and Challenges

¶5. (U) In a one-day seminar sponsored by the American-Kuwaiti Alliance (AKA), Kuwait Chamber of Commerce and Industry, American Business Council of Kuwait and Kuwait

Economic Society, a variety of American, Kuwaiti, Jordanian and Singaporean speakers discussed the benefits of U.S. free trade agreements (FTA) and the way to achieve one. Kuwait's Ministers of Foreign Affairs and Communication joined an audience of about 60 for keynote speeches by the Minister of Commerce, the Ambassador and a representative from AKA. Four members of Kuwait's TIFA team attended throughout, including two who spoke during the second roundtable session.

¶16. (U) Minister of Commerce Abdullah Al-Taweel opened the June 4 conference, saying that Kuwait is entering a new period of economic openness. He cited the Prime Minister's 2004 trips to the U.S. and East Asia, when economic topics were of the highest priority, as evidence of the government's new vision for Kuwait's economy. Al-Taweel called the TIFA a clear signal of Kuwait's desire to develop its economic relations with the U.S., and outlined the legislative changes Kuwait has put into place to increase openness. According to the minister, the National Assembly is currently debating a draft law on government procurement and a new copyright law, as well as legislation to open up Kuwait's northern oilfields. (Note. The Ministry of Information's former legal advisor, who is drafting the copyright law revisions, told Econoff on May 30 that the amendments have not been finalized or submitted to the National Assembly. End Note.)

Ambassador Discusses FTA Requirements

¶17. (U) In his speech, which was widely excerpted in the local media, the Ambassador discussed what TIFAs and FTAs are and how they fit into the U.S.'s broader policy of encouraging economic openness (the text of the speech may be found at <http://kuwait.usembassy.gov/june42005.html>). He stressed that the TIFA process is a necessary step toward an FTA, and said Kuwait must take concrete actions to translate its intent to reform into reality. This will be a challenging and possibly lengthy process, the Ambassador cautioned, but the economic advantages from an FTA could be significant. As evidence, the Ambassador referred to the specific benefits that have accrued to Jordan and Bahrain as a result of their FTAs with the U.S.

¶18. (U) The Ambassador outlined the key elements of an FTA, noting that the most important starting point is adherence to WTO commitments. He also highlighted the requirements of certain chapters, notably IPR, services, labor and environment. Finally, the Ambassador specified some of the actions Kuwait must take to move from a TIFA to an FTA. With the caveat that the list was not comprehensive, he identified Kuwait's IPR protection and enforcement record, its WTO-inconsistent import inspection regime, and its weak labor laws as areas in which Kuwait must show improvement. He recommended that the GOK's experts establish close and regular contact with their U.S. counterparts, and urged the GOK to make TIFA reforms a governmental priority. These recommendations were reported verbatim in most of Kuwait's daily newspapers.

Session 1: Why FTAs?

¶19. (U) The first roundtable discussion brought together officials from Jordan and Singapore who had been involved in negotiating their countries' FTAs with the U.S.: Marwan Al-Moasher, Minister of the Jordanian Royal Court and former Ambassador to the U.S.; Jordanian Senator and chief FTA negotiator Mohammad Al-Halaiqa; and the Deputy Director of the Singaporean Ministry of Trade and Industry's Trade Division and veteran FTA negotiator Minn Naing Oo. They were joined by Jeff Donald, the Business Council for International Understanding's Vice President for Washington Operations (who previously worked in EB) and Fawzi Sultan, the former president of the International Fund for Agricultural Development who is now a consultant to Kuwait's TIFA team. Several themes emerged from the session: 1) U.S. free trade agreements, which are based on WTO commitments, are more comprehensive than most FTAs; 2) countries must have a strong negotiating team that can work effectively with its government's agencies, as well as a dynamic, knowledgeable and hardworking staff at its embassy in Washington; and 3) negotiating an FTA is not easy, but it is worthwhile.

U.S. Free Trade Agreements

¶10. (U) Both the Jordanians and the Singaporean commented that U.S. FTAs are comprehensive documents. According to Singapore's negotiator Minn Naing Oo, the U.S. FTA is seen as the "gold standard" because of its depth and breadth. He added that although Singapore had previously negotiated four FTAs, the agreement with the U.S. was the most comprehensive and the only one to take the "negative list" approach on services. Oo noted that the Singaporean FTA with the U.S. was "WTO-plus," based on WTO obligations but going even farther on IPR, telecommunications, financial services and government procurement requirements.

¶11. (U) Al-Halaiqua said that for trade in goods and services, the U.S. FTA's reference point would be the WTO principle of national treatment, and the services chapters would be based on GATS. However, the U.S. would ask Kuwait to open up more sectors to U.S. investors than are available under the WTO. He also noted that during negotiations, the U.S. objected to a Jordanian law preventing non-Jordanians from owning more than 50% of local companies (a violation of national treatment), and said the U.S. would push for elimination of any similar laws in Kuwait.

¶12. (U) Al-Halaiqua commented that fully one-third of the Jordanian FTA text was devoted to intellectual property rights (IPR) issues, and counseled that the U.S. would require Kuwait to have strong IPR legislation and enforcement and join international IP conventions. He stressed that the IP industry is very powerful in the U.S., and advised Kuwait to talk to them and convince them of the GOK's commitment to decreasing piracy and protecting patents, trademarks and copyrights. Oo also said that IPR was an important component of Singapore's FTA. But, he noted, Singapore agreed to make IPR concessions to the U.S. because the government wanted Singapore to develop a knowledge-based economy, which required implementing strong IP safeguards.

¶13. (U) Indeed, all of the speakers stressed that an FTA should fit into Kuwait's own plans for economic reform. As Jeff Donald from the Business Council for International Understanding pointed out, an FTA is a vehicle for economic liberalization, not a destination. What is most important, he added, is Kuwait's vision for what it would like to accomplish; the FTA is a tool to bring that vision to fruition.

Strong Teams Needed to Negotiate an FTA

¶14. (U) The three negotiators were unanimous in recognizing the need for strong TIFA/FTA teams. Al-Halaiqua said that Kuwait must have competent leaders on its negotiating team (notably lawyers, since the issues are very technical), but also in the embassy in Washington. Oo agreed, adding that the Washington embassy team was not only an essential link between the U.S. negotiators and negotiators at home, but also would play a key role in lobbying U.S. industry to support an FTA. Al-Moasher advised the Kuwaitis that working only with the administration in Washington would be insufficient for attaining an FTA; a country seeking an FTA must also lobby members of Congress and industry.

¶15. (U) Al-Moasher strongly recommended that Kuwait establish a robust connection between its embassy in Washington and institutions in Kuwait. If all correspondence must go by letter through the Ministry of Foreign Affairs, he warned, the negotiations will go nowhere. Instead, he suggested, Kuwait needs teams in both Kuwait and Washington who can move quickly.

¶16. (U) Once Kuwait enters FTA negotiations with the U.S., Oo said, it must be "absolutely prepared and have done its homework." Specifically, the Kuwaiti political establishment, government agencies and officials -- especially the negotiators -- must be aware of their own laws and interests before the onset of negotiations. Both Oo and Al-Halaiqa said that the government must develop a partnership with the private sector and learn what industry's interests are, so that sensitive areas can be protected.

FTAs Are Hard Work...

¶17. (U) Al-Halaiqua spoke of his "memories of hard work and long hours" in negotiating the FTA, and stressed that both sides would be required to expend a good deal of energy to get the deal done. Oo agreed, and supported Ambassador LeBaron's point that FTAs are not easy: Singapore's negotiations with the U.S. lasted 11 rounds over four years, he said, and required hours of work not just from the negotiating team, but from other government agencies back home. Oo added that the Singaporeans learned that negative list FTA negotiations are particularly difficult, because they require extensive consultation within the government and with businesses to define what should and should not be excluded. Oo said that Kuwait will learn much from the intense negotiations process, not only about the U.S.'s political and economic system, but about Kuwait's own sensitivities.

¶18. (U) Each negotiator commented on the challenges presented by U.S. domestic politics, and BCIU's Donald stressed that the Kuwaitis must convince Congress that an FTA with Kuwait is in the U.S. interest. According to Al-Moasher, the Jordanians also had to work hard to persuade various U.S. lobby groups to support the FTA, notably U.S. growers' associations, labor and environment organizations. Oo

commented the Singaporeans were not prepared for U.S. businesses' intense interest in FTAs, and industry's strong relationship with USTR.

¶19. (U) Al-Halaiqua stressed that Kuwait needs a political commitment in support of the FTA, saying that "there is no way around that." But once that commitment is in place, he added, Kuwait must do the hard work necessary, such as amending laws and passing new legislation.

...But They Are Worthwhile

¶20. (U) Singapore's Oo repeated several times that although the journey toward an FTA would be long, intense and full of hard work, it would be worthwhile. According to him, trade and investment in Singapore have both increased since it signed an FTA with the U.S., and Singapore now has access to the largest market in the world. He also noted that Singapore pursued an FTA with the U.S. because it saw political and strategic advantages to such an association with the U.S., as well as economic ones.

¶21. (U) Both Al-Moasher and Al-Halaiqua echoed the Ambassador's observations about the positive impact Jordan's FTA has had on Jordanian exports to the U.S. (up 1400%) and job creation (35,000 new positions). Al-Halaiqua said there have also been some surprises. Jordan's information technology sector has also taken off, with most major U.S. IT companies now operating in Jordan and Jordan becoming a software exporter. Additionally, Al-Halaiqua reported, Jordan has now become a key exporter of stone and marble to the U.S.; before the FTA, Jordan had never thought these products would be important to their export market.

¶22. (U) The Jordanians disputed the notion that an FTA would exacerbate the economic power imbalance between the U.S. (a developed country) and Kuwait (a developing country). Al-Halaiqua noted that the same question had been raised in Jordan, but said that after the FTA, the U.S. has become the only country with whom Jordan has a trade surplus. A country should know where its competitive edge lies, he noted, since comparative advantage is more important than size. Al-Moasher agreed, adding that developing countries tend to do better under FTAs than their developed partners.

¶23. (U) Even more important, Al-Moasher said, the FTA has upgraded Jordan's investment climate and made it attractive to investors from third countries. As a result, the current investment rate in Jordan is unprecedented. He added that the U.S. FTA was a strong vote of confidence in the stability of Jordan's economy, and he urged the Kuwaitis to consider the benefits of the U.S. bringing investment, technology and management experience to Kuwait, all of which would occur under an FTA.

¶24. (U) In the view of Fawzi Sultan, a consultant to Kuwait's negotiating teams for the TIFA and the Singapore FTA, the reforms mandated by an FTA are just what is needed to move Kuwait ahead. Sultan's presentation demonstrated that the Middle East and North Africa (MENA) is bucking global trends toward greater trade integration and better governance. While Kuwait is better governed than its regional partners, Sultan showed that it is well below the good governance norm for countries in the same income group, and has been worsening over time.

¶25. (U) Sultan suggested that there are four keys to pulling Kuwait out of its current state: 1) moving from a public-sector led economy to one that is fueled by the private sector; 2) switching from an oil-dominated economy to a diversified one; 3) transitioning from public sector to private sector employment (Note. 93% of Kuwaiti workers are employed by the state. End Note.); and 4) shifting from protected businesses to competitive ones. According to Sultan, the goals of an FTA converge with the Prime Minister vision of Kuwait as a trade, logistics and financial hub. "We are late," Sultan concluded. "Why wait?"

Session II: The U.S.-Kuwait TIFA and the Utility of an FTA

¶26. (U) The seminar's second session focused more closely on Kuwait, with presentations from the working chair of Kuwait's TIFA committee, Ministry of Commerce Assistant Undersecretary for Foreign Trade Affairs Hamad Al-Ghanim; Saad Al-Barrak, Vice Chairman and Managing Director of MTC, a mobile telephone company; Ministry of Communications Undersecretary Hamed Khajah; and Johnnie Johnson, Secretary of the American Business Council (ABC) in Kuwait. (Note. USPTO's Director of Enforcement was scheduled to talk about IPR, but his flight to Kuwait was cancelled at the last minute. End Note.)

Update on the U.S.-Kuwait TIFA

¶27. (U) The working chair of Kuwait's TIFA committee, Hamad Al-Ghanim, opened the session by reviewing the status of the U.S.-Kuwait TIFA. According to him, most of the members of Kuwait's TIFA committee "have doubts" about going into negotiations. Nevertheless, he said, they have worked hard to establish a good council of experts who can advise them on how to move ahead. He said that Kuwait is a member of the WTO and most of its associated agreements, and has no problems with signing any other related agreements. Al-Ghanim complained that there had been only one TIFA Council meeting with the U.S., but said that the GOK hoped to have a second one in Kuwait by year's end.

¶28. (U) Al-Ghanim then turned to what he saw as the most important issues in the U.S.-Kuwait TIFA talks. First, he said, was government procurement. (Note. Although government procurement is one of many issues that USTR has raised with the GOK, it has not been identified as one of the key issues at this stage. End Note.) Al-Ghanim said that a draft government procurement law was currently with the National Assembly, and he hoped it would be forwarded to the Council of Ministers for approval soon. Second, Al-Ghanim said that a new labor law was in the final stages and hopefully would be finished shortly, thus eliminating another area of concern. Third, Al-Ghanim identified telecommunications as a key point of discussion. Finally, Al-Ghanim said, the U.S. was pushing for elimination of Kuwait's International Conformity Certification Program (ICCP). According to Al-Ghanim, the Public Authority for Industry (which controls the program) has been instructed to change it by the end of the year; he did not say, however, what changes would be made.

¶29. (U) Ministry of Communications Undersecretary Hamed Khajah, also a member of Kuwait's TIFA team, acknowledged that one of the challenges the TIFA committee faced was a lack of knowledge about Kuwait's rights and obligations in TIFA/FTA negotiations. He also said that the team does not "know how to arrange ourselves," and regretted that the governmental sectors involved do not have the proper knowledge of what needs to be done.

Views from the Private Sector

¶30. (U) Finally, two representatives of the private sector offered their views of a possible FTA. Saad Al-Barrak from the mobile telephone company MTC, one of the more successful Kuwaiti businesses, welcomed a trade agreement with the U.S. and any competition that might arise, saying he was confident that his company could compete if the right institutions and regulatory infrastructure were in place. Johnnie Johnson from the American Business Council (ABC) in Kuwait also threw his organization's support behind the TIFA. He noted that that many of the companies (foreign and Kuwaiti) who are working in Iraq and should be operating out of Kuwait are going to Jordan instead, because the business climate in Jordan is better. To create an environment where business can thrive, Johnson contended, the Kuwaitis must eliminate the current ownership requirements that force foreign businesses to have an agent or sponsor; change the corporate tax regime (which levies taxes of up to 55% on foreign companies' profits, while not taxing Kuwaiti companies at all); and improve the legal structure to improve transparency and eliminate bureaucratic red tape.

¶31. (U) Johnson stressed that the GOK must go beyond lip service and do more than simply pass laws: it must enforce the laws to make them effective. He cited as an example Kuwait's foreign investment law which, although passed more than three years ago, is almost incomprehensible and rarely applied. Once an FTA is negotiated, Johnson strongly urged the GOK to establish a reasonable timeframe for ratification, to avoid having it languish for years. Finally, Johnson advocated that the GOK be realistic about "Kuwaitization" policies. While he agreed that greater employment of Kuwaitis is necessary during a transition from public sector-led employment to private sector employment, he noted that there are only limited numbers of specialists in technical areas. U.S. businesses would prefer to hire locally, but should not have to hire Kuwaiti staff who can do nothing but fill a quota.

LEBARON